

## SUBCHAPTER 2E - MISCELLANEOUS OPERATIONS

### 19A NCAC 02E .0201 DEFINITIONS FOR OUTDOOR ADVERTISING CONTROL

In addition to the definitions set forth in G.S. 136-128, the following definitions shall apply for purposes of outdoor advertising control:

- (1) Abandoned Sign: A sign that is not being maintained as required by the rules in this Section. The absence of a valid lease is one indication of an abandoned sign. An outdoor advertising sign structure shall be considered to be abandoned if for a period of 12 months the sign has been without a message, contains obsolete advertising matter, or is significantly damaged or dilapidated.
- (2) Automatic Changeable Facing Sign: A sign, display, or device which changes the message or copy on the sign facing electronically by movement or rotation of panels or slats.
- (3) Blank Sign: A sign structure on which all faces contain no message, or which contains only a telephone number advertising its availability.
- (4) Comprehensive Zoning: Zoning by local zoning authorities of each parcel of land under the jurisdiction of the local zoning authority placed in a zoning classification pursuant to a comprehensive plan, or reserved for future classification.
  - (a) A comprehensive plan means a development plan which guides decisions by the local zoning authority relating to zoning and the growth and development of the area.
  - (b) Even if comprehensively enacted, the following criteria shall determine whether such zoning is enacted primarily to permit outdoor advertising:
    - (i) The zoning classification provides for limited commercial or industrial activity only incidental to other primary land uses;
    - (ii) The commercial or industrial activities are permitted only by variance or special exceptions; or
    - (iii) The zoning constitutes spot or strip zoning. "Spot zoning" or "strip zoning" is zoning designed primarily for the purpose of permitting outdoor advertising signs in an area which would not normally permit outdoor advertising.
- (5) Conforming Sign: A sign legally erected in a zoned or unzoned commercial or industrial area which meets all current legal requirements for erecting a new sign at that site.
- (6) Controlled Access Highway: A highway on which entrance and exit accesses are permitted only at designated points.
- (7) Controlled Route: Any interstate or federal-aid primary highway as it existed on June 1, 1991, and any highway which is or becomes a part of the National Highway System (NHS).
- (8) Destroyed Sign: A sign no longer in existence due to factors other than vandalism or other criminal or tortious acts. An example of a destroyed sign includes a sign which has been blown down by the wind and sustains damage in excess of 50 percent as determined by the criteria in 19A NCAC 02E .0225(f).
- (9) Dilapidated Sign: A sign which is shabby, neglected, or in disrepair, or which fails to be in the same form as originally constructed, or which fails to perform its intended function of conveying a message. Characteristics of a dilapidated sign include, but are not limited to, structural support failure, a sign not supported as originally constructed, panels or borders missing or falling off, intended messages cannot be interpreted by the motoring public, or a sign which is blocked by overgrown vegetation outside the highway right of way.
- (10) Directional Sign: A sign which contains directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. Directional and other official signs and notices include, but are not limited to, public utility signs, service club and religious notices, or public service signs.

- (a) Public Service Sign: A sign located on a school bus stop shelter which meets all the following requirements:
    - (i) identifies the donor, sponsor or contributor of said shelter;
    - (ii) is located on a school bus shelter which is authorized or approved by city, county, or state law, regulation, or ordinance, and at places approved by the city, county, or state agency controlling the highway involved;
    - (iii) contains only safety slogans or messages which shall occupy not less than 60 percent of the area of the sign;
    - (iv) does not exceed 32 square feet in area; and
    - (v) contains not more than one sign facing in any one direction.
  - (b) Public Utility Sign: A warning sign, informational sign, notice or other marker customarily erected and maintained by publicly or privately owned utilities, which are essential to their operations.
  - (c) Service Club and Religious Notices: Any sign or notice authorized by law which relates to meetings of nonprofit service clubs, charitable associations, or religious services. These signs shall not exceed eight square feet in area.
- (11) Discontinued Sign: A sign no longer in existence. A discontinued sign includes a sign of which any part of a sign face is missing more than 180 days. In some cases, a sign may be both discontinued and dilapidated.
  - (12) Freeway: A divided arterial highway for through traffic with full control of access.
  - (13) Highway: A highway that is designated as a part of the interstate or federal-aid primary highway system as of June 1, 1991, or any highway which is or becomes a part of the National Highway System. A highway shall be a part of the National Highway System on the date the location of the highway has been approved finally by the appropriate federal authorities.
  - (14) Lease: An agreement, in writing, by which possession or use of land or interests therein is given for a specified purpose and period of time, and which is a valid contract under North Carolina laws.
  - (15) Main Traveled Way or Traveled Way: Part of a highway on which through traffic is carried, exclusive of paved shoulders. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a traveled way. It does not include frontage roads, turning roadways, or parking areas.
  - (16) Nonconforming Sign: A sign which was lawfully erected but which does not comply with the provisions of State law or rules passed at a later date or which later fails to comply with State law or rules due to changed conditions. For purposes of the outdoor advertising rules, nonconforming signs also include those signs which have become nonconforming pursuant to 19A NCAC 02E .1002(d) on scenic byways which were part of the interstate or federal-aid primary highway system as of June 1, 1991, or which are or become a part of the National Highway System.
  - (17) Official Sign/Notice: A sign or notice erected and maintained by public officers or public agencies within their territorial or zoning jurisdictions and pursuant to and in accordance with federal, state, or local law for the purpose of carrying out an official duty or responsibility. Official signs and notices include, but are not limited to, historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies.
  - (18) On-premise/On-property Sign: A sign which advertises the sale or lease of property upon which it is located or which advertises an activity conducted or product for sale on the property upon which it is located. An on-premise sign may not be converted to a permitted outdoor advertising sign unless it meets all rules in effect at the time of the conversion request. An on-premise sign must be located on property contiguous to the property on which the activity is located. Tracts not considered to be contiguous include, but are not limited to:
    - (a) Tracts of land separated by a federal, state, city, or public access maintained road;
    - (b) Tracts of land not under common ownership; or

- (c) Tracts of land held in different estates or interests.
- (19) Parkland: Any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.
- (20) Permit Holder: A permit holder shall be the sign owner, and for purposes of the rules in this Section the terms and definitions shall be interchangeable, unless the Department of Transportation, through the appropriate district office, has been notified in writing that the permit holder is a person or entity other than the actual owner of the sign. In this case, the actual sign owner's name, mailing address, and telephone number must be declared.
- (21) Salvageable Sign Components: Components of the original sign structure prior to the damage that can be repaired or replaced on site by the use of labor only. If any materials, other than nuts, bolts, nails or similar hardware, are required in order to repair a component, the component is not considered to be salvageable.
- (22) Scenic Area: Any area of particular beauty or historical significance as determined by the federal, state, or local official having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation and enhancement of beauty.
- (23) Scenic Byway: A scenic highway or scenic byway designated by the Board of Transportation, regardless of whether the route so designated was part of the interstate or federal-aid primary highway system as of June 1, 1991, or any highway which is or becomes a part of the National Highway System.
- (24) Sign: Any outdoor sign, sign structure, display, light, device, figure, painting, drawing, message, placard, poster, billboard, or other object which is designed, intended, or used to advertise or inform. A sign includes any of the parts or material of the structure, such as beams, poles, posts, and stringers, the only eventual purpose of which is to ultimately display a message or other information for public view. For purposes of these rules, the term "sign" and its definition shall be interchangeable with the following terms: outdoor advertising, outdoor advertising sign, outdoor advertising structure, outdoor advertising sign structure, sign structure, and structure.
- (25) Sign Conforming by Virtue of the "Grandfather Clause:" A sign legally erected prior to the effective date of the Outdoor Advertising Control Act or prior to the addition of a route to the interstate or federal-aid primary system or NHS in a zoned or unzoned commercial or industrial area which does not meet all current standards for erecting a new sign at that site.
- (26) Sign Face: The part of the sign, including trim and background, which contains the message or informative contents. For purposes of measuring the maximum area or height of a sign, embellishments or extended advertising shall be excluded.
- (27) Sign Location/Site: A sign location or site for purposes of these rules shall be measured to the closest 1/100th of a mile, in conformance with Department of Transportation methods of measurement for all state roads. The location or site shall be determined and listed on each outdoor advertising permit application by DOT personnel.
- (28) Sign Owner: A sign owner shall be the permit holder of record, and for purposes of the rules in this Section the terms and definitions shall be interchangeable, unless the Department of Transportation, through the appropriate district office, has been notified in writing that the sign owner is a person or entity other than the actual holder of the permit. In this case, the actual sign owner's name, mailing address, and telephone number must be declared.
- (29) Significantly Damaged Sign: A sign which has been damaged or partially destroyed due to factors other than vandalism or other criminal or tortious acts to such extent that the damage to the sign is greater than fifty percent as determined by the criteria in 19A NCAC 02E .0225(f).
- (30) Unzoned Commercial or Industrial Area: An area which is not zoned by state or local law, regulation, or ordinance, and which is within 660 feet of the nearest edge of the right of way of the interstate or federal-aid primary system or NHS, in which there is at least one commercial or industrial activity that meets all requirements specified in 19A NCAC 02E .0203(5).

- (31) Zoned Commercial or Industrial Area: An area which is zoned for business, industry, commerce, or trade pursuant to a state or local zoning ordinance or regulation. Local zoning action must be taken pursuant to the state's zoning enabling statute or constitutional authority in accordance therewith. Zoning which is not part of comprehensive zoning or which is created primarily to permit outdoor advertising structures shall not be recognized as valid zoning for purposes of the Outdoor Advertising Control Act and the rules promulgated thereunder, unless the land is developed for commercial or industrial activity as defined under 19A NCAC 02E .0203(5).

*History Note:* Authority G.S. 136-130;  
Eff. July 1, 1978;  
Amended Eff. August 1, 2000; December 1, 1993; March 1, 1993; December 1, 1990;  
January 1, 1984.

#### **19A NCAC 02E .0202 AGREEMENT**

(a) The Department of Transportation has entered into an agreement with the United States Department of Transportation relating to the control of outdoor advertising in areas adjacent to the interstate and federal-aid primary highway systems or NHS in accordance with Section 131(b), and Section 104 of Title 23 of the United States Code and Part 750 of Title 23 of the Code of Federal Regulations. To the extent that these federal regulations and subsequent amendments and editions are more restrictive than North Carolina Department of Transportation rules, these federal regulations are expressly incorporated by reference as part of this section. Copies of Title 23 of the United States Code are available from the Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. The Code of Federal Regulations, Title 23, is available from the same address.

(b) A copy of this agreement is on permanent file in the Office of the State Highway Administrator.

*History Note:* Authority G.S. 136-138; 143B-350(f); 150B-21.6;  
Eff. July 1, 1978;  
Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; June 15, 1981.

#### **19A NCAC 02E .0203 OUTDOOR ADVERTISING ON CONTROLLED ROUTES**

The following standards shall apply to the erection and maintenance of outdoor advertising signs in all zoned and unzoned commercial and industrial areas located within 660 feet of the nearest edge of the right of way of the controlled route. The standards shall not apply to those signs enumerated in G.S. 136-129(1), (2), (2a) and (3), which are directional and other official signs and notices, signs advertising the sale or lease of property upon which they are located, signs advertising the sale of crops at roadside stands, and signs which advertise activities conducted on the property upon which they are located.

(1) Configuration and Size of Signs:

- (a) The maximum area for any one sign shall be 1,200 square feet with a maximum height of 30 feet and maximum length of 60 feet, inclusive of any border and trim but excluding the base or apron, embellishments, extended advertising space, supports, and other structural members.
- (b) The area shall be calculated by measuring the outside dimensions of face, excluding any apron, embellishments, or extended advertising space.
- (c) The maximum size limitations shall apply to each side of a sign structure; the signs may be placed back-to-back, side-by-side; or in V-type construction with not more than two displays to each facing, and such sign structure shall be considered as one sign.
- (d) Side-by-side signs shall be structurally tied together to be considered as one sign structure.
- (e) V-type and back-to-back signs shall not be considered as one sign if located more than 15 feet apart at their nearest points.

- (f) The height of any portion of the sign structure, excluding cutouts or embellishments, as measured vertically from the adjacent edge of pavement of the main traveled way shall not exceed 50 feet.
  - (g) Double-decking of sign faces so that one is on top of the other is prohibited.
- (2) Spacing of Signs:
  - (a) Signs may not be located in a manner to obscure, or otherwise physically interfere with the effectiveness of any official traffic sign, signal, or device, or to obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.
  - (b) Controlled Routes with Fully Controlled Access (Freeways):
    - (i) No two structures shall be spaced less than 500 feet apart.
    - (ii) Outside the corporate limits of towns and cities, no structure may be located within 500 feet of an interchange, collector distributor, intersection at grade, safety rest area or information center regardless of whether the main traveled way is within or outside the town or city limits. The 500 feet spacing shall be measured from the point at which the pavement widens and the direction of measurement shall be along the edge of pavement away from the interchange, collector distributor, intersection at grade, safety rest area or information center. In those interchanges where a quadrant does not have a ramp, the 500 feet for the quadrant without a ramp shall be measured along the outside edge of main traveled way for freeways as follows:
      - (A) Where a route is bridged over a freeway, the 500 foot measurement shall begin on the outside edge of pavement of the freeway at a point directly below the edge of the bridge. The direction of measurement shall be along the edge of pavement away from the interchange.
      - (B) Where a freeway is bridged over another route, the 500 foot measurement shall be made from the end of the bridge in the quadrant. The direction of measurement shall be along the edge of main traveled way away from the bridge.
      - (C) Where the routes involved are both freeways, measurements on both routes shall be made according to (A) or (B) of this Subitem, whichever applies.  
Should there be a situation where there is more than one point at which the pavement widens along each road within a quadrant, the measurement shall be made from the pavement widening which is farthest from the intersecting roadways.
  - (c) Controlled Routes Without Fully Controlled Access:
    - (i) Outside of incorporated towns and cities --no two structures shall be spaced less than 300 feet apart.
    - (ii) Within incorporated towns and cities --no two structures shall be spaced less than 100 feet apart.
  - (d) The foregoing provisions for the spacing of signs do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distances is visible from the highway at any one time.
  - (e) Official and "on-premise" signs, as permitted under the provisions of G.S. 136-129(1), (2), (2a) and (3), and structures that are not lawfully maintained shall not be included nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
  - (f) The minimum distance between structures shall be measured along the nearest edge of the main traveled way between points directly opposite the signs along each side of the highway and shall apply only to structures located on the same side of the highways.
- (3) Lighting of Signs; Restrictions:

- (a) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights including animated or scrolling advertising, are prohibited, unless expressly allowed under Item 4, of this rule except those giving public service information such as time, date, temperature, weather, or similar information.
  - (b) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the controlled routes and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with the operation of a motor vehicle are prohibited.
  - (c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
  - (d) All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the state.
  - (e) Lighting shall not be added to or used to illuminate nonconforming signs or signs conforming by virtue of the grandfather clause.
- (4) Automatic Changeable Facing Sign:
  - (a) Automatic changeable facing signs shall be permitted on the controlled routes under the following conditions:
    - (i) The sign does not contain or display flashing, intermittent, or moving lights, including animated or scrolling advertising;
    - (i) The changeable facing remains in a fixed position for at least eight seconds;
    - (iii) If a message is changed electronically, it must be accomplished within an interval of two seconds or less;
    - (iv) The sign is not placed within 1,000 feet of another automatic changeable facing sign on the same side of the highway;
    - (v) The 1000-foot distance shall be measured along the nearest edge of the pavement and between points directly opposite the signs along each side of the highway;
    - (vi) A legally conforming structure may be modified to an automatic changeable facing upon compliance with these standards and approval by the Department. Nonconforming or grandfathered structures shall not be modified to an automatic changeable facing;
    - (vii) The sign must contain a default design that will freeze the sign in one position if a malfunction occurs; and
    - (viii) The sign application meets all other permitting requirements.
  - (b) The outdoor advertising permit shall be revoked for failure to comply with this Item.
- (5) Unzoned Commercial or Industrial Area Qualification for Signs:
  - (a) To qualify an area unzoned commercial or industrial for the purpose of outdoor advertising control, one or more commercial or industrial activities shall meet all of the following criteria prior to submitting an outdoor advertising permit application:
    - (i) The activity shall maintain all necessary business licenses as may be required by applicable state, county or local law or ordinances;
    - (ii) The property used for the activity shall be listed for ad valorem taxes with the county and municipal taxing authorities as required by law;
    - (iii) The activity shall be connected to basic utilities including but not limited to power, telephone, water, and sewer, or septic service;
    - (iv) The activity shall have direct or indirect vehicular access and be a generator of vehicular traffic;
    - (v) The activity shall have a building designed with a permanent foundation, built or modified for its current commercial or industrial use, and the building must be located within 660 feet from the nearest edge of the right of way of the controlled route. Where a mobile home

or recreational vehicle is used as a business or office, the following conditions and requirements also apply;

- (A) The mobile home unit or recreational vehicle shall meet the North Carolina State Building Code criteria for commercial or business use.
- (B) A self-propelled vehicle shall not qualify for use as a business or office for the purpose of these rules.
- (C) All wheels, axles, and springs shall be removed.
- (D) The unit shall be permanently secured on piers, pad, or foundation.
- (E) The unit shall be tied down in accordance with local, state, or county requirements;
- (vi) The commercial or industrial activity must be in active operation a minimum of six months prior to the date of submitting an application for an outdoor advertising permit;
- (vii) The activity shall be open to the public during hours that are normal and customary for that type of activity in the same or similar communities but not less than 20 hours per week;
- (viii) One or more employees shall be available to serve customers whenever the activity is open to the public; and
- (ix) The activity shall be visible and recognizable as commercial or industrial from the main traveled way of the controlled route. An activity is visible when that portion on which the permanent building designed, built, or modified for its current commercial use can be clearly seen twelve months a year by a person of normal visual acuity while traveling at the posted speed on the main traveled way of the controlled route adjacent to the activity. An activity is recognizable as commercial or industrial when its visibility from the main traveled way of the controlled route is sufficient for the activity to be identified as commercial or industrial.
- (b) Each side of the controlled route shall be considered separately. All measurements shall begin from the outer edges of regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activity, not from the property line of the activity and shall be along the nearest edge of the main traveled way of the controlled route.
- (c) The proposed sign location must be within 600 feet of the activity.
- (d) To qualify an area as unzoned commercial or industrial for the purpose of outdoor advertising control, none of the following activities shall be recognized:
  - (i) Outdoor advertising structures;
  - (ii) On-premise or on-property signs defined by Rule .0201(18) of this Section if the on-premise/on-property sign is the only part of the commercial or industrial activity that is visible from the main-traveled way;
  - (iii) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to temporary wayside fresh produce stands;
  - (iv) Transient or temporary activities;
  - (v) Activities not visible and recognizable as commercial or industrial from the traffic lanes of the main traveled way;
  - (vi) Activities more than 660 feet from the nearest edge of the right of way;
  - (vii) Activities conducted in a building principally used as a residence;
  - (viii) Railroad tracks and minor sidings;
  - (ix) Any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity; and
  - (x) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards as set out in G.S. 136-147;

*History Note:*     *Authority G.S. 136-130;*  
                         *Eff. July 1, 1978;*  
                         *Amended Eff. August 1, 2000; November 1, 1993; December 1, 1990; November 1, 1988.*